



Michigan Supreme Court
State Court Administrative Office
Trial Court Services Division
Michigan Hall of Justice
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October 4, 2007
MICHIGAN COURT FORMS COMMITTEE
Minutes of September 20, 2007 Meeting

Present: Hon. Judy Hartsfield, 3rd Circuit Court
Pamela Jarvis, Probate Register, Barry County Probate Court
Hon. R. Terry Maltby, Sanilac County Probate Court
Johanna O'Grady-Ward, 3rd Circuit Court
David C. Rauch, Court Administrator, Charlevoix County Probate Court
Hon. Kenneth Tacoma, Wexford County Probate Court
Hon. Karen Tighe, Bay County Probate Court
Linda S. Weiss, 42nd Circuit Court
Amy L. Byrd, State Court Administrative Office (staff)
Traci Gentilozzi, State Court Administrative Office (staff)
Jennifer Warner, State Court Administrative Office (staff)

Absent: Sheryl Thompson, Genesee County Department of Human Services

The meeting was called to order at 9:30 a.m.

Committee members were advised of the new process for developing and revising SCAO-Approved court forms and that information is available on the website.

Introductions were made. Traci Gentilozzi was introduced to the committee as the new SCAO Forms and Manuals Analyst for the State Court Administrative Office.

A. Notice of Minor Corrections

The committee agreed that forms requiring minor changes, such as spelling, citations, grammar, punctuation, etc., will be corrected by the State Court Administrative Office. The following forms will be corrected and distributed in December 2007: JC 04a, JC 37, JC 45, JC 48, JC 74, JC 77, JC 78, JC 85, PCA 301, PCA 303, PCA 304, PCA 305a, PCA 308a, PCA 309, PCA 310, PCA 311, PCA 312, PCA 313, PCA 314, PCA 318, PCA 319, PCA 320, PCA 321, PCA 321a, PCA 322, PCA 323, PCA 325, PCA 326, PCA 327, PCA 329, PCA 332, PCA 334, PCA 335, PCA 336, PCA 337, PCA 338, PCA 339, PCA 340, PCA 341, PCA 342, PCA 343, PCA 344, PCA 345, PCA 346, PCA 347, PCA 348, PCA 349, PCA 350, and PCA 351.

B. Juvenile and Child Protective Forms

1. JC 04b, Petition (Child Protective Proceedings)

The committee discussed a request to add space for the name of the father in item 5c, which was based on a presumption that the termination of parental rights of all fathers is being requested, when in fact, it may only be the rights of certain fathers. The committee considered a suggestion to revert to the previous petition because of the complexity of the current form. Although the current form is confusing, the committee decided it would not be beneficial to change it back at this point because it would cause more confusion. After discussing various solutions, the committee designated each line for the father's name in item 4 in the same manner that the children's names are designated in item 1 (i.e. a, b, c, and d) and added corresponding check box options in item 5c as follows: "5. ☐ c. terminate ☐ mother's parental rights. ☐ father's parental rights. Father: ☐ 4a ☐ 4b ☐ 4c ☐ 4d." **Staff Note:** It is suggested the language in item 5c be improved slightly as follows: "5. ☐ c. terminate ☐ parental rights of mother. ☐ parental rights of father ☐ 4a. ☐ 4b. ☐ 4c. ☐ 4d."

The committee agreed that the typographical error in item 2 should be corrected from "name" to "named."

The committee also considered a request to increase space for phone numbers in item 4. The committee indicated that it was not willing to go to a two-page form in order to provide more space for names, addresses, and telephone numbers. Members pointed out that the "Work phone" number is rarely unavailable; therefore, they removed that column and changed the column for "Home phone" to "Telephone no." The extra space will be allotted to the columns for both the address and the telephone number during typesetting.

The form was approved as revised.

2. JC 11a, Order After Preliminary Hearing (Child Protective Proceedings)

The committee agreed that the reference in item 14 to schedule a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

The form was approved as revised.

3. JC 11b, Order After Pretrial Hearing (Child Protective Proceedings)

The committee agreed that the reference in item 11 to schedule a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

The form was approved as revised.

4. **JC 17, Order of Disposition (Child Protective Proceedings)**

The committee agreed that the reference in item 11 to schedule a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

The committee discussed a request to create a form that combines this order with JC 49 for situations in which the court conducts combined adjudication and disposition hearings. The committee indicated it was undesirable to combine the two forms for statewide use because it is not a common practice to conduct the dispositional hearing immediately following adjudication in child protective proceedings. The committee acknowledged that the ASFA findings are repetitive, and even though it requires more paperwork, members agreed the two forms should remain separate. Courts are free to design local versions to suit their own needs.

In addition, the committee discussed a request to add an option for a combined dispositional review/permanency planning hearing in item 27. The committee indicated it was unnecessary because both boxes can be checked and the same date and time entered for both.

The form was approved as revised.

5. **JC 19, Order Following Dispositional Review/Permanency Planning Hearing**

Committee members discussed a request to add an option for a combined dispositional review/permanency planning hearing in item 27. The committee indicated it was unnecessary because both boxes could be checked and the same date and time entered for both.

The form was unchanged.

6. **JC 25, Order of Disposition, Commitment Referral to Department of Human Services (Delinquency Proceedings)**

The committee discussed an inquiry to delete item 20, and reviewed MCL 712A.18(3), which states that “[a]n order of disposition placing a juvenile in the juvenile's own home under subsection (1)(b) may contain a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of service. If an order is entered under this subsection, an amount due shall be determined and treated in the same manner provided for an order entered under subsection (2).” Some members noted that their courts do not refer to the cost of service as a service fee, but instead refer to it as an administrative fee. Because there is no specific reference in statute to either of these phrases, the committee deleted item 20. The remaining items were renumbered accordingly.

While discussing the form, a member asked whether reference to “juvenile boot camp program established by the Michigan Department of Human Services” in item 15c was appropriate. After reviewing the statute, members agreed the item should be retained

because the language comes from the statute and the Department continues to license various juvenile boot camps throughout the state.

The form was approved as revised.

7. **JC 32, Publication of Hearing**

Committee members discussed a request to reword the first line because the use of the word “on” makes it unclear whether the line should contain a type of hearing or a date. The committee agreed the current language is confusing. The sentence was changed as follows: “A hearing regarding _____ will be conducted”

The form was approved as revised.

8. **JC 47, Order for Alternate Service**

The committee discussed a request to add a line in item 3e to specify where publication should take place, such as another state or multiple locations. Members remarked that this is a significant concern. Accordingly, committee members added two lines to item 3e as follows:

“☐ e. providing notice of the hearing through publication in (use form JC 32 for publishing the hearing notice)

specify location

_____.” For consistency, reference to the location was also added to the caption in item 5 of the Proof of Service on the back of the form.

The form was approved as revised.

9. **JC 49, Order of Adjudication (Child Protective Proceedings)**

The committee agreed that the reference in item 14 to schedule a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

While discussing the form, it was pointed out that item 4 does not reflect the language in MCR 3.206(A)(4) and that another action can be within the same county. Staff responded that it was a probably more general to accommodate the requirements of MCR 3.205(A), which is broader, as well as the requirements of MCR 3.206(A)(4). Also, the language in MCR 3.206(A)(4) is only required to be in pleadings (and the petition does reflect the language in this rule). With regard to actions within the same county, it is presumed the court will have been notified by way of the notice requirement in MCR 3.205(A) if it is a different court in that county. If it’s the same court within that county, item 4 would not need to be completed because the language on the form says the “jurisdiction of another court,” not another county. However, since it is possible for different divisions within the

same court to have different case management systems that do not communicate, members pointed out it would be beneficial to provide the name of any court (including itself) in item 4. Item 4 was revised as follows: “The child(ren) ___ is/are ___ is/are not subject to the continuing jurisdiction of _____.” **Staff Note:** It is suggested that the boxes be changed to “is/are” and “is not/are not.”

The cites MCR 3.205(A) and MCR 3.206(A)(4) were added to the foot of the form.

The form was approved as revised.

Staff Note: For purposes of consistency, the change to item 4 will be made JC 11b, the only other form that appears to contain this language.

10. **JC 57, Supplemental Order of Disposition Following Review Hearing (Delinquency Proceedings)**

The committee discussed a request to remove the check box in front of item 18 and to change the language to reflect the standard used on other orders. Members agreed to the following: “The previous order dated _____ remains in effect except as modified by this order.” The committee pointed out that item 4 says “last order” instead of “previous order,” which is how the sentence is worded in other orders. Members indicated the forms should be consistent. Staff responded that the proper term will be determined by SCAO and applied to the affected orders accordingly. **Staff Note:** The language used on other forms is “last order.” With regard to the order portion, standard language used on JC 11b, JC 49, JC 17, and JC 19 is “Prior orders remain in effect except as modified by this order.” It is suggested this same language be used on JC 57.

The committee also discussed a request to add an option for commitment to DHS when probation is found to be ineffective. Members declined to add the option because it is already provided for on form JC 25, and adding it to this form will confuse the Department of Human Services.

The form was approved as revised.

11. **JC 59, Order of Adjudication (Delinquency Proceedings)**

The committee discussed an inquiry from JIS as to which date should be entered in item 5. It is unclear to JIS whether it should be the date the petition is authorized, the date the petition is received by the court for filing, or the date the petition is prepared and signed by the petitioner. After considerable discussion about the differing ways the courts use this form, the committee proposed removing the date requirement. Staff responded that the date most likely did not trigger subsequent events within the case management system and was not associated with any specific data collection. Therefore, it did not appear that it would create a problem if the date line was removed. Item 5 was changed as follows: “5. **THE COURT FINDS:** The following material allegations of the petition are sustained or dismissed.” SCAO staff will make this change to any other form with the same language.-

The form was approved as revised.

Staff Note: There are no other JC forms containing the language in item 5 of this form.

12. JC 63, Order Terminating Parental Rights (Child Protective Proceedings)

The committee agreed that the reference in the note at the foot of the form that refers to scheduling a permanency planning hearing within 30 days should be changed to 28 days to comply with a recent amendment to MCR 3.976(B)(1).

The committee discussed an inquiry as to whether the note at the bottom of the form applies to all terminations or only those terminations based on aggravated circumstances or other statutory basis. Currently, the note states "When parental rights are terminated, a permanency planning hearing must be held within 30 days unless a permanency planning hearing was held before termination (form JC 19). If proper notice has already been given, the permanency planning hearing can be conducted immediately following the termination hearing. This is especially useful in obtaining a uniform date for future permanency planning hearings when parental rights have been terminated to more than one child and the removal dates of the children are different. Use form JC 76." Members were advised that one of the staff attorneys in SCAO has suggested that the statute says this 30-day requirement applies only in aggravated circumstances and that MCR 3.976(B)(1) validates this interpretation. Committee members responded that the statute can be interpreted otherwise and remarked that it would be ill-advised to change the language of the note, irrespective of the court rule. The committee decided to modify the note to incorporate a reference to the applicable statute so that interpretation is left to the jurist. The note was changed as follows: "If a child remains in foster care and parental rights are terminated in accordance with MCL 712A.19a(2), a permanency planning hearing must be held within 28 days"

The committee agreed to a request to add a date and signature line for the referee because this is a standard applicable to all the court order forms. To accommodate the addition, the committee removed on line under item 13.

The form was approved as revised.

13. JC 65, Order Removing Alleged Abuser From Child's Home (Child Protective Proceedings)

The committee was advised that there is no corresponding provision in statute authorizing law enforcement to enter an order in LEIN pursuant to MCL 712A.13a, which provides for removal of an alleged abuser from a child's home, and MCL 764.15f, which states that an alleged abuser may be arrested upon review of an order in LEIN. The committee agreed with the suggestion to remove item 9. The committee remarked that this is a serious oversight that should be raised with the Legislature.

The committee agreed to a request to add a date and signature line for the referee because

this is a standard applicable to all the court order forms.

The committee pointed out that the field for the full social security number should probably not remain on the form because it violates the privacy act. Members agreed that the social security number is of no real significance in light of the other information on the form and deleted the field rather than change it for recording the last four digits of the social security number, which is the standard for court forms that continue to require the field.

The form was approved as revised.

14. **JC 82, Affidavit of Service Performed by Lawyer-Guardian Ad Litem**

The committee discussed the difference between the statutory language in item 2 and the provisions in MCR 3.915(B)(2). MCL 712A.17d states the lawyer-guardian ad litem must “meet with or observe the child and assess the child's needs and wishes with regard to the representation and the issues in the case” at certain prescribed times. Michigan Court Rule 3.915(B)(2) says “[a]t each hearing, the court shall inquire whether the lawyer-guardian ad litem has met or had contact with the child, as required by the court or MCL 712A.17d(1)(d).” Members were asked to determine whether the form should comply with the higher standard prescribed by statute, or whether the language is a statutory practice provision that may be superseded by court rule pursuant to MCR 1.104. After considerable discussion, item 2 was changed pursuant to the court rule as follows: “I have met with or had contact with the child as required by ☐ the court. ☐ MCL 712A.17d(1)(d). (specify).”

The form was approved as revised.

15. **New Form, Order Following Preadjudication Review Hearing (Child Protective Proceedings)**

The committee considered an inquiry about the need to develop a statewide order for use pursuant to MCR 3.972(A) when the trial has not been held within 182 days of the date of a child's removal. The committee declined to develop a form, stating that this is not a widespread occurrence. A court can draft its own order as needed.

16. **New Form, Order Following Preadjudication Permanency Planning Hearing (Child Protective Proceedings)**

The committee considered an inquiry about the need to develop a statewide order for use pursuant to MCR 3.976)(B)(1) after an initial permanency planning hearing held before a trial has been held. The committee agreed there is a need for a statewide form and pointed out that form JC 19 would suffice with a minor change to item 4, which is to add reference to protective custody as follows: “As of the last order, the child(ren) named above was/were in the protective/temporary custody of the court, and” Members indicated item 17 must be changed accordingly as follows: “The child(ren) is/are continued in the protective/temporary custody of this court, and”

Also, members discussed whether reference to “review hearings” in item 27 should be changed or omitted to reflect the expanded use of form JC 19. Members agreed that a preadjudication permanency planning hearing is a review hearing of sorts, so item 27 was not changed. In addition, users can simply not check the box if it doesn’t apply.

Reference to MCR 3.976 (B) was added to the foot of the form.

Staff inquired whether the use note needed any modification to accommodate the expanded use of the form. Members responded that the current “Use Note” should be retained as it is.

Form JC 19 was approved as revised.

17. New Form, Order Following Permanency Planning Hearing (Delinquency Proceedings)

The committee considered an inquiry about the need for a statewide order following a permanency planning hearing in delinquency proceedings. Instead of creating a new form, members suggested modifying JC 57 so that it serves the needs of both the review hearing and permanency planning hearing, much like the child protective form (JC 19) does. However, after considerable effort modifying form JC 57 to accommodate this situation, members expressed concerns that such modifications would make the form far too complex and would create unnecessary confusion for a requirement that involves a very small number of IV-E eligible juveniles in comparison to the total caseload. The committee also declined to create a new form. For those cases that require a permanency planning hearing, the court should draft its own order as appropriate.

18. New Form, Order for Correction and/or Clarification of Child’s Name (Child Protective Proceedings)

The committee discussed a suggestion to develop a statewide order to correct the name of a child as it appears in the legal file of a child protective case and reviewed the draft that was provided. Members considered expanding the use of the form to include other pieces of information, such as parent’s name, date of the child’s birth, etc., as well as to cover other types of proceedings. The committee decided to expand the use of the form to include other pieces of information, but not to cover other types of proceedings. The title of the draft form was changed to “Order Correcting Identifying Information (Child Protective Proceedings).”

Members discussed a number of ways to word the order. Rather than use too much time at the meeting, and because the change in the scope of the form should be probably be published for comment and placed on the agenda next year before finalizing the form, it was suggested that SCAO staff typeset a new draft based on overall suggestions provided by the committee. Staff inquired what pieces of information should be included and members responded that it should be the general identifying information that is provided in the original petition; it should include the names and date of birth as shown on the birth certificate.

The committee cautioned against changing the language from the original draft too much because it meets requirements necessary to remain eligible for IV-E funding. The committee discussed whether the form should be designed for more than one person. Although it is feasible, the committee concluded that it might be better to avoid possible confusion and to add a use note as follows: "Use Note: One order per person." The cite MCR 2.612(A) was added to the foot of the form.

Staff Note: SCAO will typeset two versions for consideration - one that contains a grid so that the court can issue one order for multiple persons in the case and one that contains the use note to use the form for only one individual. It is suggested the use note be changed to: "Use Note: Prepare a separate order for each affected individual."

19. New Form, Motion and Order to Reduce Costs

The committee discussed a suggestion to develop a statewide motion and order for reducing fees and costs other than the state minimum costs provided for in JC 52 and the restitution provided for in JC 54. The committee declined to develop a form for a number of reasons, the primary reason being that there is no underlying statutory or court rule authority for it. Although an individual may motion a court for any relief and the court has general authority to enter orders regarding those motions, the committee agreed its function is to develop forms that assist the courts and users to practice effectively and uniformly where the requirements are specifically prescribed by statute or court rule. If so inclined, a court can draft its own form.

20. New Form, Motion for Next Friend

The committee discussed an inquiry about the need to develop a statewide form. After reviewing MCR 3.703(F)(2) and discussing the various local practices, members declined to create a statewide form. While a motion can be a useful screening device, the court rule does not require a motion for next friend. A court can create its own form according to its local practice.

C. Adoption Forms

21. PCA 307, Consent to Adoption by Adoptee

The committee discussed an inquiry from the SCAO as to whether the language in item 4 conflicts with MCL 700.2114(3) and MCL 710.60. The committee indicated the statutes do not conflict, thus, staff withdrew the inquiry.

22. PCA 315, Declaration of Inability to Identify/Locate Father

The committee discussed an inquiry whether it would be helpful to provide captions under the lines in item 3 to indicate names and addresses, along with the actual attempts made to locate the father. Members noted that this information is often supported by testimony, so it is unnecessary. However, since the form is being revised by the SCAO anyway to correct grammar, punctuation, and citations, members, the committee agreed it would be

beneficial to alter item 3 as follows: “3. The father’s address or location is not known and cannot be determined. I have made the following reasonable attempt(s) to locate him: (State specifically what attempts you made; provide names and addresses, if known.)”

The committee did not specifically address the other corrections identified by the SCAO as part of its internal review process.

The form was approved as revised.

D. Other Circuit Court Family Division Forms

23. PC 100, Petition for Emancipation, Affidavit, and Waiver of Notice

The committee discussed a suggestion to add an instruction to the petitioner to cross out the social security number on the birth certificate before filing it with the court so that it will not be publicly available. In discussing the matter, committee members noted this is a privacy issue that should not be addressed by a court form and that individuals should not be advised to redact information from a document that has been certified to be a true copy of the original. Members noted the form is sufficient as is and that the privacy policy issued by the SCAO addresses the manner in which individuals may request information be made confidential. Courts should already be mindful of the policy and should handle any concerns through local policy and procedures in conjunction with the privacy policy issued by the SCAO. Members noted this issue could be addressed by court rule, but did not recommend any formal followup.

24. New Form, Publication of Notice of Hearing for Name Change

The committee discussed a request to develop a statewide publication of notice of hearing for name changes which would be used in place of form PC 563. Members indicated that the current form is sufficient and declined to develop a new form.

25. New and Revised Forms for Use Under the Amended Safe Delivery of Newborn Act

The committee discussed new and revised forms for use under the amended Safe Delivery of Newborn Act, effective January 1, 2007. Members were advised that the forms are already being used in Wayne and Oakland counties where most of these cases arise and that there appear to be no problems with them at this point. The committee essentially passed on these forms because they are not widely used. Members had no substantive input. Accordingly, the forms will be finalized in their present format and distributed in December with the other forms approved by the committee.

Meeting adjourned, 2:00 p.m.

Respectfully submitted,

Traci Gentilozzi, Forms and Manuals Analyst
Amy L. Byrd, Forms and Records Manager